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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

DEBRA A. COWART,
Plaintiff,

v.

NANCY A. BERRYHILL, Acting
Commissioner of Social
Security,
Defendant.

CASE NO. CV 17-1553 SS

MEMORANDUM DECISION AND ORDER

I.

INTRODUCTION

Debra A. Cowart ("Plaintiff") seeks review of the final decision of the Acting Commissioner of Social Security (the "Commissioner" or "Agency") denying her applications for social security benefits. The parties consented, pursuant to 28 U.S.C. § 636(c), to the jurisdiction of the undersigned United States Magistrate Judge. (Dkt. Nos. 11, 13, 15). For the reasons stated below, the decision of the Commissioner is REVERSED and this case

1 is REMANDED for further administrative proceedings consistent with
2 this decision.

3
4 **II.**

5 **THE FIVE-STEP SEQUENTIAL EVALUATION PROCESS**

6
7 To qualify for disability benefits, a claimant must
8 demonstrate a medically determinable physical or mental impairment
9 that prevents the claimant from engaging in substantial gainful
10 activity and that is expected to result in death or to last for a
11 continuous period of at least twelve months. Reddick v. Chater,
12 157 F.3d 715, 721 (9th Cir. 1998) (citing 42 U.S.C. § 423(d)(1)(A)).
13 The impairment must render the claimant incapable of performing
14 work previously performed or any other substantial gainful
15 employment that exists in the national economy. Tackett v. Apfel,
16 180 F.3d 1094, 1098 (9th Cir. 1999) (citing 42 U.S.C.
17 § 423(d)(2)(A)).

18
19 To decide if a claimant is entitled to benefits, an ALJ
20 conducts a five-step inquiry. 20 C.F.R. §§ 404.1520, 416.920. The
21 steps are:

22
23 (1) Is the claimant presently engaged in substantial gainful
24 activity? If so, the claimant is found not disabled. If
25 not, proceed to step two.

26 (2) Is the claimant's impairment severe? If not, the
27 claimant is found not disabled. If so, proceed to step
28 three.

1 (3) Does the claimant's impairment meet or equal one of the
2 specific impairments described in 20 C.F.R. Part 404,
3 Subpart P, Appendix 1? If so, the claimant is found
4 disabled. If not, proceed to step four.

5 (4) Is the claimant capable of performing his past work? If
6 so, the claimant is found not disabled. If not, proceed
7 to step five.

8 (5) Is the claimant able to do any other work? If not, the
9 claimant is found disabled. If so, the claimant is found
10 not disabled.

11
12 Tackett, 180 F.3d at 1098-99; see also Bustamante v. Massanari,
13 262 F.3d 949, 953-54 (9th Cir. 2001); 20 C.F.R. §§ 404.1520(b)-
14 (g)(1), 416.920(b)-(g)(1).

15
16 The claimant has the burden of proof at steps one through four
17 and the Commissioner has the burden of proof at step five.
18 Bustamante, 262 F.3d at 953-54. Additionally, the ALJ has an
19 affirmative duty to assist the claimant in developing the record
20 at every step of the inquiry. Id. at 954. If, at step four, the
21 claimant meets his or her burden of establishing an inability to
22 perform past work, the Commissioner must show that the claimant
23 can perform some other work that exists in "significant numbers"
24 in the national economy, taking into account the claimant's
25 residual functional capacity ("RFC"), age, education, and work
26 experience. Tackett, 180 F.3d at 1098, 1100; Reddick, 157 F.3d at
27 721; 20 C.F.R. §§ 404.1520(g)(1), 416.920(g)(1). The Commissioner
28 may do so by the testimony of a VE or by reference to the Medical-

1 Vocational Guidelines appearing in 20 C.F.R. Part 404, Subpart P,
2 Appendix 2 (commonly known as "the grids"). Osenbrock v. Apfel,
3 240 F.3d 1157, 1162 (9th Cir. 2001). When a claimant has both
4 exertional (strength-related) and non-exertional limitations, the
5 Grids are inapplicable and the ALJ must take the testimony of a
6 vocational expert ("VE"). Moore v. Apfel, 216 F.3d 864, 869 (9th
7 Cir. 2000) (citing Burkhart v. Bowen, 856 F.2d 1335, 1340 (9th Cir.
8 1988)).

10 III.

11 THE ALJ'S DECISION

12
13 The ALJ employed the five-step sequential evaluation process
14 in evaluating Plaintiff's case. At step one, the ALJ found that
15 Plaintiff has not engaged in substantial gainful activity since
16 March 13, 2012, the alleged onset date. (AR 27). At step two,
17 the ALJ found that Plaintiff's degenerative disc disease of the
18 lumbosacral spine, obesity, hypertension, and diabetes are severe
19 impairments. (AR 28). At step three, the ALJ determined that
20 Plaintiff does not have an impairment or combination of impairments
21 that meet or medically equal the severity of any of the listings
22 enumerated in the regulations. (AR 28).

23
24 The ALJ then assessed Plaintiff's RFC and concluded that she
25 can "lift and carry 10 pounds frequently and 20 pounds
26 occasionally; stand/walk for 6 hours out of 8; sit without
27 restrictions; occasional stooping and crouching; no climbing ropes,
28 ladders, and scaffolds; and no working near unprotected heights."

1 (AR 28). At step four, the ALJ found that Plaintiff is capable of
2 performing past relevant work as a receptionist, administrative
3 clerk, and data entry operator. (AR 32). Accordingly, the ALJ
4 found that Plaintiff was not under a disability as defined by the
5 Social Security Act since March 13, 2012, the alleged onset date.
6 (AR 32).

8 IV.

9 STANDARD OF REVIEW

10
11 Under 42 U.S.C. § 405(g), a district court may review the
12 Commissioner's decision to deny benefits. "[The] court may set
13 aside the Commissioner's denial of benefits when the ALJ's findings
14 are based on legal error or are not supported by substantial
15 evidence in the record as a whole." Aukland v. Massanari, 257 F.3d
16 1033, 1035 (9th Cir. 2001) (citing Tackett, 180 F.3d at 1097); see
17 also Smolen v. Chater, 80 F.3d 1273, 1279 (9th Cir. 1996) (citing
18 Fair v. Bowen, 885 F.2d 597, 601 (9th Cir. 1989)).

19
20 "Substantial evidence is more than a scintilla, but less than
21 a preponderance." Reddick, 157 F.3d at 720 (citing Jamerson v.
22 Chater, 112 F.3d 1064, 1066 (9th Cir. 1997)). It is "relevant
23 evidence which a reasonable person might accept as adequate to
24 support a conclusion." Id. To determine whether substantial
25 evidence supports a finding, the court must " 'consider the record
26 as a whole, weighing both evidence that supports and evidence that
27 detracts from the [Commissioner's] conclusion.' " Aukland, 257
28 F.3d at 1035 (quoting Penny v. Sullivan, 2 F.3d 953, 956 (9th Cir.

1 1993)). If the evidence can reasonably support either affirming
2 or reversing that conclusion, the court may not substitute its
3 judgment for that of the Commissioner. Reddick, 157 F.3d at 720-
4 21 (citing Flaten v. Sec'y of Health & Human Servs., 44 F.3d 1453,
5 1457 (9th Cir. 1995)).

6
7 **V.**

8 **DISCUSSION**

9
10 **A. New Evidence Is Part Of The Record Before This Court**

11
12 Following her August 2015 hearing, Plaintiff submitted new
13 evidence that predated the ALJ's September 2015 decision: (1) a
14 mental RFC from Carlos Jordan-Manzano, M.D., dated March 17, 2015;
15 and (2) medical records from Tyron C. Reece, M.D., dated December
16 14, 2014, through August 27, 2015. (AR 665-94). The ALJ briefly
17 acknowledged Dr. Jordan-Manzano's report (AR 31), but did not
18 include it or Dr. Reece's records in the list of documents reviewed
19 for his decision. (AR 33-38).

20
21 Plaintiff contends that the Appeals Council "made no
22 indication that the new evidence was considered." (Dkt. No. 22 at
23 6). To the contrary, the Appeals Council considered the new
24 evidence and made it a part of the record. (AR 2) ("we
25 considered . . . the additional evidence listed on the enclosed
26 Order"); (see id. 4-5). The Appeals Council nevertheless declined
27 to alter the ALJ's decision. (AR 1-5). Thus, the new evidence
28 became part of the record and must be considered by this Court in

1 reviewing the ALJ's decision. Brewes v. Comm'r of Soc. Sec. Admin.,
2 682 F.3d 1157, 1163 (9th Cir. 2012) ("[W]hen the Appeals Council
3 considers new evidence in deciding whether to review a decision of
4 the ALJ, that evidence becomes part of the administrative record,
5 which the district court must consider when reviewing the
6 Commissioner's final decision for substantial evidence."). In
7 other words, this Court must "determine whether the ALJ's finding
8 of nondisability was supported by substantial evidence in the
9 entire record - including any new evidence in the administrative
10 record that the Appeals Council considered - not just the evidence
11 before the ALJ." Gardner v. Berryhill, 856 F.3d 652, 656 (9th Cir.
12 2017).

13
14 **B. The ALJ Failed To Properly Weigh The Treating Physicians'**
15 **Opinions**

16
17 An ALJ must afford the greatest weight to the opinions of the
18 claimant's treating physicians. The opinions of treating
19 physicians are entitled to special weight because the treating
20 physician is hired to cure and has a better opportunity to know
21 and observe the claimant as an individual. Connett v. Barnhart,
22 340 F.3d 871, 874 (9th Cir. 2003); Thomas v. Barnhart, 278 F.3d
23 947, 956-57 (9th Cir. 2002); Magallanes v. Bowen, 881 F.2d 747,
24 751 (9th Cir. 1989). Where the treating doctor's opinion is not
25 contradicted by another doctor, it may be rejected only for "clear
26 and convincing" reasons. Lester v. Chater, 81 F.3d 821, 830 (9th
27 Cir. 1995), as amended (Apr. 9, 1996). Even if the treating
28 physician's opinion is contradicted by another doctor, the ALJ may

1 not reject this opinion without providing specific, legitimate
2 reasons, supported by substantial evidence in the record. Id. at
3 830-31; see Orn v. Astrue, 495 F.3d 625, 632 (9th Cir. 2007); Ryan
4 v. Comm'r of Soc. Sec., 528 F.3d 1194, 1198 (9th Cir. 2008). "If
5 a treating physician's opinion is not given 'controlling weight'
6 because it is not 'well-supported' or because it is inconsistent
7 with other substantial evidence in the record," the ALJ shall
8 consider "specified factors in determining the weight it will be
9 given[, including] . . . the length of the treatment relationship
10 and the frequency of examination by the treating physician[] and
11 the nature and extent of the treatment relationship between the
12 patient and the treating physician." Orn, 495 F.3d at 631 (citation
13 omitted); see 20 C.F.R. §§ 404.1527(d)(2) (listing factors to
14 consider), 416.927(d)(2) (same).

15
16 **1. Dr. Woodward**

17
18 On June 14, 2013, Artis Woodward, M.D., Plaintiff's family
19 practice physician, completed a Physical RFC Questionnaire. (AR
20 599-602). He opined that while Plaintiff is capable of "low stress"
21 work, her lower back pain from sciatica and a lumbosacral sprain
22 would cause frequent interference with the attention and
23 concentration necessary to sustain simple, repetitive workday
24 tasks. (AR 599-600). Dr. Woodward further concluded that
25 Plaintiff can sit or stand for only ten to fifteen minutes before
26 needing to change positions. (AR 600-01). During a normal workday,
27 Plaintiff can sit, stand or walk less than two hours, total, out
28 of an eight-hour workday. (AR 601). She can rarely lift ten

1 pounds and frequently lift less than ten pounds. (AR 601).
2 Plaintiff can never twist, stoop/bend, crouch, climb ladders, or
3 climb stairs. (AR 601). Dr. Woodward opined that Plaintiff has
4 moderate limitations in doing repetitive reaching, handling or
5 fingering. (AR 601). Finally, Dr. Woodward concluded that as a
6 result of her impairments, Plaintiff would likely miss more than
7 four days of work per month. (AR 602). Although the ALJ
8 "considered" Dr. Woodward's opinion, it was "not accorded
9 significant weight." (AR 30).

10
11 The ALJ rejected Dr. Woodward's opinion because Arthur
12 Brovender, M.D., a medical expert ("ME") who testified at the
13 August 2015 hearing, found the opinion unsupported by the medical
14 record. (AR 30-31). Dr. Brovender concluded that Plaintiff's
15 "examinations have all been essentially normal." (AR 31). The
16 ALJ further surmised that Plaintiff's treating physicians "took
17 [Plaintiff's] subjective allegations at face value and did not rely
18 on objective findings in support of such limited functional
19 limitations." (AR 31). The ALJ's analysis is contrary to law and
20 not supported by substantial evidence.

21
22 First, to the extent that the ALJ relied on the opinion of
23 the ME to reject Dr. Woodward's opinion, the ALJ erred. "The
24 opinion of a nonexamining physician cannot by itself constitute
25 substantial evidence that justifies the rejection of the opinion
26 of either an examining physician or a treating physician." Lester,
27 81 F.3d at 831. Instead, the opinions of a nonexamining physician
28 may serve as substantial evidence only when the opinions "are

1 supported by other evidence in the record and are consistent with
2 it." Andrews v. Shalala, 53 F.3d 1035, 1041 (9th Cir. 1995).

3
4 Defendant contends that the ME's opinion was corroborated by
5 the opinions of state agency physicians and the consultative
6 examiner. (Dkt. No. 27 at 5-6). However, the state agency doctors
7 are also nonexamining physicians, and the consultative examiner's
8 functional assessment was more restrictive than the ME's. (Compare
9 AR 50-51, with id. 400). Indeed, the consultative examiner agreed
10 with Dr. Woodward that Plaintiff was limited to carrying ten pounds
11 occasionally and less than ten pounds frequently. (Compare AR 400,
12 with id. 601). Thus, Defendants arguments fail to persuade the
13 Court that the ALJ's reliance on the ME's opinion was proper.

14
15 Second, the ALJ's vague and cursory explanations for rejecting
16 Dr. Woodward's opinion are insufficient to meet the "specific,
17 legitimate reasons" standard. As the Ninth Circuit has
18 consistently mandated:

19
20 To say that medical opinions are not supported by
21 sufficient objective findings or are contrary to the
22 preponderant conclusions mandated by the objective
23 findings does not achieve the level of specificity our
24 prior cases have required, even when the objective
25 factors are listed seriatim. The ALJ must do more than
26 offer his conclusions. He must set forth his own
27 interpretations and explain why they, rather than the
28 doctors', are correct.

1 Embrey v. Bowen, 849 F.2d 418, 421-22 (9th Cir. 1988) (footnote
2 omitted); accord Orn, 495 F.3d at 632. Therefore, "[i]f the ALJ
3 wishes to disregard the opinion of the treating physician, he or
4 she must make findings setting forth specific, legitimate reasons
5 for doing so that are based on substantial evidence in the record."
6 Orn, 495 F.3d at 632 (citation omitted). Here, the ALJ fails to
7 provide any specific and legitimate reasons, supported by
8 substantial evidence in the record, for his conclusion that Dr.
9 Woodward's opinion is contrary to the objective evidence. (AR 31).

10
11 Finally, Dr. Woodward's opinion is consistent with the
12 treatment notes and clinical tests that he performed. "A
13 physician's opinion of disability premised to a large extent upon
14 the claimant's own accounts of his symptoms and limitations may be
15 disregarded where those complaints have been properly discounted."
16 Morgan v. Comm'r of Soc. Sec. Admin., 169 F.3d 595, 602 (9th Cir.
17 1999) (citation omitted). Here, the ALJ did not assess Plaintiff's
18 credibility. (See generally AR 28-31). While noting that
19 Plaintiff does not have a prescription for the cane she presented
20 with at the hearing (AR 29) and observing an apparent inconsistency
21 between Plaintiff's contention that she has significantly limited
22 sitting and standing abilities and her treating physician's
23 encouragement to exercise thirty minutes daily (AR 30), the ALJ
24 did not make an explicit credibility finding. Even assuming,
25 however, that the ALJ properly rejected Plaintiff's credibility,
26 the record does not establish that Dr. Woodward based his opinion
27 largely on Plaintiff's self-reports rather than the doctor's own
28 clinical observations. See Ryan, 528 F.3d at 1199-200 (error where

1 ALJ asserted that examining physician relied "too heavily on
2 [claimant's] 'subjective complaints' " but there was nothing in
3 record to suggest that physician relied more heavily on claimant's
4 complaints than the doctor's clinical observations); Webb v.
5 Barnhart, 433 F.3d 683, 688 (9th Cir. 2005) ("[T]here is no
6 inconsistency between Webb's complaints and his doctors' diagnoses
7 sufficient to doom his claim as groundless Webb's clinical
8 records did not merely record the complaints he made to his
9 physicians, nor did his physicians dismiss Webb's complaints as
10 altogether unfounded. To the contrary, the doctors' reports and
11 test results usually corresponded with the afflictions Webb
12 perceived"). Contrary to Dr. Brovender's conclusion,
13 Plaintiff's examinations were not "essentially normal." Dr.
14 Woodward's clinical findings included moderate tenderness at L3-5,
15 with pain radiating to Plaintiff's thighs, reduced grip strength,
16 and a positive Phalen's Test.¹ (AR 599). Other clinical findings
17 included L3-S1 pain and tenderness, decreased range of motion in
18 the lumbar spine, and muscle spasms at L1-5 bilaterally. (AR 447-
19 49). Dr. Woodward's clinical diagnoses included lumbar spine
20 sprain, low back pain, and lumbar sciatica. (AR 445-49).

21 22 **2. Dr. Reece**

23
24 On October 17, 2014, Tyron C. Reece, M.D., Plaintiff's general
25 practice physician, completed a Physical RFC Questionnaire. (AR

26
27 ¹ "Phalen's maneuver is a diagnostic test for carpal tunnel
28 syndrome." https://en.wikipedia.org/wiki/Phalen_maneuver (last
visited Mar. 1, 2018).

1 590-93). He opined that Plaintiff's mid to lower back pain with
2 deep throbbing sensations would cause constant interference with the
3 attention and concentration necessary to sustain simple, repetitive
4 work tasks. (AR 590-91). Because of Plaintiff's constant pain
5 and difficulty with positioning, she is incapable of even low
6 stress work. (AR 591). Plaintiff cannot sit for more than ten
7 minutes or stand for more than five minutes without needing to
8 change positions. (AR 591-92). During an eight-hour workday,
9 Plaintiff can sit, stand or walk for less than two hours. (AR
10 592). She is incapable of lifting any weight and should never
11 twist, stoop/bend, crouch, or climb. (AR 592). Plaintiff also
12 has mild limitations in doing repetitive reaching, handling or
13 fingering. (AR 592). Dr. Reece opined that due to her impairments,
14 Plaintiff would likely miss more than four days of work per month.
15 (AR 593). On December 29, 2014, Dr. Reece submitted a narrative
16 disability evaluation. (AR 604-11). He opined that Plaintiff's
17 impairments preclude her from any lifting, bending, stretching,
18 pulling, squatting, stooping, climbing, or sitting or standing for
19 more than ten minutes at any one time. (AR 611). The ALJ rejected
20 Dr. Reece's opinions for the same reasons that he rejected Dr.
21 Woodward's opinion. (AR 30-31).

22
23 The ALJ's analysis is contrary to law and not supported by
24 substantial evidence. First, to the extent that the ALJ relied on
25 the opinion of the nonexamining ME by itself to reject Dr. Reece's
26 opinions, the ALJ erred. Lester, 81 F.3d at 831. Second, the
27 ALJ's vague and cursory explanations for rejecting Dr. Reece's
28 opinions are insufficient to meet the "specific, legitimate

1 reasons" standard. Embrey, 849 F.2d at 421-22; see Orn, 495 F.3d
2 at 632.

3
4 Finally, Dr. Reece's opinions are consistent with the
5 treatment notes and clinical tests that he performed. Even
6 assuming, that the ALJ properly rejected Plaintiff's credibility,
7 the record does not establish that Dr. Reece based his opinions
8 largely on Plaintiff's self-reports rather than the doctor's own
9 clinical observations. Dr. Reece's examinations were not
10 "essentially normal." Instead, his clinical findings included
11 paraspinal hypertonicity, with decreased range of motion, and an
12 MRI "positive for L4-L5 disc." (AR 590, 607-08). He also observed
13 poor exercise (cardiovascular) tolerance; persistent,
14 nonproductive cough; indigestion, occasional vomiting, and upper
15 abdominal pain; and chronic back and left shoulder pain, with very
16 limited range of motion. (AR 606, 673-94). Based on his clinical
17 observations, Dr. Reece found that Plaintiff's pain "has been [due
18 to] the lack of blood perfusion to the paraspinal muscle masses
19 and more recently the compromise of the nerve roots passing through
20 the neuroforamen." (AR 610). Dr. Reece's clinical diagnoses
21 included chronic cervical-lumbar myofascial syndrome with tension
22 cephalgia, lumbar herniated disc L4-5, neuroforaminal stenosis,
23 radiculopathy left lower extremities, and left shoulder arthropathy
24 with left hand neuropathy. (AR 608; see also id. 673-94).

1 **3. Dr. Jordan-Manzano**

2

3 On March 15, 2015, Carlos Jordan-Manzano, M.D., completed a

4 Mental RFC Questionnaire. (AR 667-71). He diagnosed major

5 depressive disorder, recurrent. (AR 667). Dr. Jordan-Manzano

6 opined that Plaintiff's mental impairments would cause her to be

7 off-task for up to twenty percent of the work day, would be absent

8 five or more days per month due to her conditions, and would

9 experience poor concentration and memory due to her conditions.

10 (AR 670-71). The ALJ rejected Dr. Jordan-Manzano's opinion,

11 finding no objective support for the mental limitations. (AR 31).

12 The ALJ noted that Plaintiff neither testified to any mental

13 limitations nor listed any mental symptoms in her disability

14 report. (AR 31). The ALJ also found that Plaintiff's mental

15 impairments "improved shortly after her [major depression]

16 diagnosis with appropriate treatment." (AR 31). The ALJ concluded

17 that Plaintiff "has no more than "mild", if any, limitations

18 in . . . mental functioning." (AR 31).

19

20 The ALJ's analysis is not supported by substantial evidence.

21 First, Dr. Jordan-Manzano's opinion is consistent with Dr. Reece's

22 assessment. In August 2015, Dr. Reece diagnosed PTSD and major

23 depressive disorder. (AR 673). Dr. Reece concluded that

24 Plaintiff's "mental health issues are an intrical [sic] entity of

25 the primary cause and effect for the permanent disability

26 accompanying her long term lumbar disc and back conditions." (AR

27 673). Second, while Plaintiff did not testify to any mental

28 limitations, both she and her sister asserted in their disability

1 reports that Plaintiff has anxiety attacks when she is around a
2 lot of people. (AR 326, 342).

3
4 Further, Dr. Jordan-Manzano's opinion is consistent with the
5 treatment notes and clinical tests that he performed. "[A]n ALJ
6 may not pick and choose evidence unfavorable to the claimant while
7 ignoring evidence favorable to the claimant." Cox v. Colvin, 639
8 F. App'x 476, 477 (9th Cir. 2016) (citing Ghanim v. Colvin, 763
9 F.3d 1154, 1164 (9th Cir. 2014)). Plaintiff was initially
10 diagnosed with major depressive disorder in October 2013. (AR
11 455). Thereafter, while Plaintiff reported some improvements, she
12 continued to report depression and anxiety symptoms, despite being
13 compliant with her medications. See Buck v. Berryhill, 869 F.3d
14 1040, 1049 (9th Cir. 2017) ("[Psychiatric] [d]iagnoses will always
15 depend in part on the patient's self-report, as well as on the
16 clinician's observations of the patient. But such is the nature
17 of psychiatry. Thus, the rule allowing an ALJ to reject opinions
18 based on self-reports does not apply in the same manner to opinions
19 regarding mental illness.") (citation omitted). In December 2013,
20 Plaintiff reported depressed mood, with passive suicidal ideations,
21 isolation, PTSD, anhedonia, lethargy, irritability, and chronic
22 pain. (AR 462). In February 2014, Plaintiff reported insomnia,
23 and exhibited suboptimal improvement of symptoms. (AR 460). In
24 April 2014, she reported frequent episodes of depressed mood. (AR
25 459). While her symptoms were "improving" by May 2014, they were
26 still suboptimal. (AR 457). In November 2014, Plaintiff reported
27 continuing symptoms of depression and isolation. (AR 654). In
28 December 2014, Plaintiff presented in a sad mood, complaining of

1 social isolation and lack of motivation. (AR 652). In March 2015,
2 Plaintiff presented in sad mood, spoke in a low tone, and complained
3 of social isolation. (AR 648). By April 2015, Plaintiff reported
4 sadness, isolation, insomnia, anorexia, and heart palpitations,
5 despite being compliant with her medications. (AR 646). She
6 presented in a low mood and sad affect. (AR 646). In May 2015,
7 Plaintiff reported anxiety, depression, insomnia, and anorexia.
8 (AR 644). In June 2015, Plaintiff continued to experience
9 depressive and anxiety symptoms, despite being compliant with her
10 medications. (AR 641). In July 2015, Plaintiff presented with
11 frustrated mood and sad affect. (AR 639). She reported depressive
12 and anxiety symptoms. (AR 639).

13 14 **4. Summary**

15
16 In sum, the ALJ did not provide specific and legitimate
17 reasons for rejecting the opinions of Drs. Woodward, Reece, and
18 Jordan-Manzano. On remand, the ALJ shall reevaluate the weight to
19 be afforded these opinions, including the evidence submitted to
20 the Appeals Council. If the ALJ finds appropriate reasons for not
21 giving the opinions controlling weight, the ALJ may not reject the
22 opinions without providing specific and legitimate reasons
23 supported by substantial evidence in the record.²

24
25
26 ² Plaintiff also argues that the ALJ erred in determining her RFC.
27 (Dkt. No. 22 at 26-29). However, it is unnecessary to reach
28 Plaintiff's arguments on this ground, as the matter is remanded
for the alternative reasons discussed at length in this Order.

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VI.

CONCLUSION

Accordingly, IT IS ORDERED that Judgment be entered REVERSING the decision of the Commissioner and REMANDING this matter for further proceedings consistent with this decision. IT IS FURTHER ORDERED that the Clerk of the Court serve copies of this Order and the Judgment on counsel for both parties.

DATED: March 5, 2018

/s/

SUZANNE H. SEGAL
UNITED STATES MAGISTRATE JUDGE

**THIS DECISION IS NOT INTENDED FOR PUBLICATION IN LEXIS/NEXIS,
WESTLAW OR ANY OTHER LEGAL DATABASE.**